

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF AMERICA)	Criminal No. 3:02CR-220-V
)	
v.)	Filed: 09/13/2002
)	
ROBERT BRADLEY DUTTON,)	Violation:
)	15 U.S.C. § 1
)	
Defendant.)	

INDICTMENT

The Grand Jury charges:

CONSPIRACY TO RESTRAIN TRADE

(15 U.S.C. § 1)

I.

DESCRIPTION OF THE OFFENSE

1. Robert Bradley Dutton is hereby indicted and made defendant on the charge stated below.
2. Beginning at least as early as September 1999 and continuing until at least January 2001, the exact dates being unknown to the Grand Jury, within Mecklenburg County within the Western District of North Carolina and elsewhere, Robert Bradley Dutton and others engaged in a combination and conspiracy to suppress and restrain competition in the sale of polyester staple sold in the United

States. The combination and conspiracy engaged in by Robert Bradley Dutton and co-conspirators was in unreasonable restraint of interstate trade and commerce in violation of Section One of the Sherman Act (15 U.S.C. § 1).

II.

BACKGROUND

3. Polyester staple is a man-made, petroleum-based fiber that is manufactured in varying thicknesses and cut into short lengths. It is sold to textile manufacturers who incorporate it into fabrics for sheets, shirts, and other wearing apparel. Other forms of polyester staple have applications in items such as sleeping bags, pillows, and comforters.

III.

DEFENDANT AND CO-CONSPIRATORS

4. Robert Bradley Dutton is a United States citizen and resides in Wilmington, North Carolina. During the period covered by this Indictment, he was a sales manager employed by Nan Ya Plastics Corporation, America, a corporation organized and existing under the laws of Delaware, and was engaged in the sale and distribution of polyester staple in the United States.

5. Various individuals and corporations, not made defendants in this Indictment, participated as co-conspirators in the offense charged and performed acts and made statements in furtherance of it.

6. Whenever in this Indictment reference is made to any act, deed, or

transaction of any corporation, the allegation means that the corporation engaged in the act, deed, or transaction by or through its officers, directors, employees, agents, or other representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

IV.

THE CONSPIRACY

7. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among Robert Bradley Dutton and co-conspirators, the substantial terms of which were to fix, increase, and maintain prices and to coordinate price increases for the sale of polyester staple in the United States, and to allocate among the corporate conspirators customers for polyester staple in the United States.

8. For the purpose of forming and carrying out the charged combination and conspiracy, Robert Bradley Dutton and co-conspirators performed the following acts, among others:

- (a) participated in meetings and conversations to discuss the prices of polyester staple sold in the United States;
- (b) agreed, during those meetings and conversations, to charge prices at specified levels and otherwise to fix, increase, and maintain prices of polyester staple sold in the United States;
- (c) agreed, during those meetings and conversations, to allocate among the corporate conspirators customers for polyester staple in the

United States;

- (d) agreed, during those meetings and conversations, to refrain from bidding or to submit intentionally high, complementary and non-competitive bids, for particular contracts to supply polyester staple to various customers throughout the United States;
- (e) exchanged sales and customer information for the purpose of monitoring and enforcing adherence to the agreements reached;
- (f) issued price announcements and price quotations in accordance with the agreements reached;
- (g) sold polyester staple at the agreed-upon prices and in accordance with the agreed-upon customer allocations; and
- (h) sold polyester staple to various customers throughout the United States at rigged and non-competitive prices.

V.

INTERSTATE TRADE AND COMMERCE

9. During the period covered by this Indictment, Robert Bradley Dutton and co-conspirators sold a substantial quantity of polyester staple in a continuous and uninterrupted flow of interstate trade and commerce to customers located in states other than the states in which the polyester staple was produced.

10. During the period covered by this Indictment, the business activities of Robert Bradley Dutton and co-conspirators that are the subject of this Indictment were within the flow of, and substantially affected, interstate trade and commerce.

VI.

JURISDICTION AND VENUE

11. The combination and conspiracy charged in this Indictment was carried out, in part, within Mecklenburg County within the Western District of North Carolina, within the five years preceding the return of this Indictment.

ALL IN VIOLATION OF TITLE 15 U.S.C. § 1.

DATED this _____ day of _____, 2002.

A TRUE BILL

_____/s/
FOREPERSON

_____/s/
CHARLES A. JAMES
Assistant Attorney General

_____/s/
JAMES M. GRIFFIN
Deputy Assistant Attorney General

_____/s/
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_____/s/
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